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LRB093 05844 BDD 43740 a

1 AMENDMENT TO HOUSE BILL 0621

2 AMENDMENT NO. _____. Amend House Bill 0621 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Department of Commerce and Economic
5 Opportunity Law of the Civil Administrative Code of Illinois is
6 amended by changing Section 605-332 as follows:

7 (20 ILCS 605/605-332)

8 Sec. 605-332. Financial assistance to energy generation
9 facilities.

10 (a) As used in this Section:

11 "New electric generating facility" means a
12 newly-constructed electric generation plant or a newly
13 constructed generation capacity expansion at an existing
14 facility, including the transmission lines and associated
15 equipment that transfers electricity from points of supply to
16 points of delivery, and for which foundation construction
17 commenced not sooner than July 1, 2001, which is designed to
18 provide baseload electric generation operating on a continuous
19 basis throughout the year~~+~~ and:

20 (1) ~~which~~ has an aggregate rated generating capacity of
21 at least 400 megawatts for all new units at one site, uses
22 coal or gases derived from coal as its primary fuel source,
23 and supports the creation of at least 150 new Illinois coal
24 mining jobs; or

1 (2) uses coal gasification or integrated
2 gasification-combined cycle units that generate
3 electricity or chemicals, or both, and that supports the
4 creation of Illinois coal-mining jobs; or

5 (3) is a public utility that is owned and operated by
6 any political subdivision or municipal corporation or that
7 is owned by such an entity and is operated by any lessee or
8 any operating agent of that entity and that supports the
9 creation of Illinois coal-mining jobs; or

10 (4) is owned in whole or in part by an electric
11 cooperative, as defined in Section 3.4 of the Electric
12 Supplier Act, and supports the creation of Illinois
13 coal-mining jobs; or

14 (5) is a State-owned facility and supports the creation
15 of Illinois coal-mining jobs.

16 "Eligible business" means an entity that proposes to
17 construct a new electric generating facility and that has
18 applied to the Department to receive financial assistance
19 pursuant to this Section. With respect to use and occupation
20 taxes, wherever there is a reference to taxes, that reference
21 means only those taxes paid on Illinois-mined coal used in a
22 new electric generating facility.

23 "Department" means the Illinois Department of Commerce and
24 Economic Opportunity ~~Community Affairs~~.

25 (b) The Department is authorized to provide financial
26 assistance to eligible businesses for new electric generating
27 facilities from funds appropriated by the General Assembly as
28 further provided in this Section.

29 An eligible business seeking qualification for financial
30 assistance for a new electric generating facility, for purposes
31 of this Section only, shall apply to the Department in the
32 manner specified by the Department. Any projections provided by
33 an eligible business as part of the application shall be
34 independently verified in a manner as set forth by the

1 Department. An application shall include, but not be limited
2 to:

3 (1) the projected or actual completion date of the new
4 electric generating facility for which financial
5 assistance is sought;

6 (2) copies of documentation deemed acceptable by the
7 Department establishing either (i) the total State
8 occupation and use taxes paid on Illinois-mined coal used
9 at the new electric generating facility for a minimum of 4
10 preceding calendar quarters or (ii) the projected amount of
11 State occupation and use taxes paid on Illinois-mined coal
12 used at the new electric generating facility in 4 calendar
13 year quarters after completion of the new electric
14 generating facility. Bond proceeds subject to this Section
15 shall not be allocated to an eligible business until the
16 eligible business has demonstrated the revenue stream
17 sufficient to service the debt on the bonds; and

18 (3) the actual or projected amount of capital
19 investment by the eligible business in the new electric
20 generating facility.

21 The Department shall determine the maximum amount of
22 financial assistance for eligible businesses in accordance
23 with this paragraph. The Department shall not provide financial
24 assistance from general obligation bond funds to any eligible
25 business unless it receives a written certification from the
26 Director of the Bureau of the Budget (now Governor's Office of
27 Management and Budget) that 80% of the State occupation and use
28 tax receipts for a minimum of the preceding 4 calendar quarters
29 for all eligible businesses or as included in projections on
30 approved applications by eligible businesses equal or exceed
31 110% of the maximum annual debt service required with respect
32 to general obligation bonds issued for that purpose. The
33 Department may provide financial assistance not to exceed the
34 amount of State general obligation debt calculated as above,

1 the amount of actual or projected capital investment in the
2 energy generation facility, or \$100,000,000, whichever is
3 less. Financial assistance received pursuant to this Section
4 may be used for capital facilities consisting of buildings,
5 structures, durable equipment, and land at the new electric
6 generating facility. Subject to the provisions of the agreement
7 covering the financial assistance, a portion of the financial
8 assistance may be required to be repaid to the State if certain
9 conditions for the governmental purpose of the assistance were
10 not met.

11 An eligible business shall file a monthly report with the
12 Illinois Department of Revenue stating the amount of
13 Illinois-mined coal purchased during the previous month for use
14 in the new electric generating facility, the purchase price of
15 that coal, the amount of State occupation and use taxes paid on
16 that purchase to the seller of the Illinois-mined coal, and
17 such other information as that Department may reasonably
18 require. In sales of Illinois-mined coal between related
19 parties, the purchase price of the coal must have been
20 determined in an arms-length transaction. The report shall be
21 filed with the Illinois Department of Revenue on or before the
22 20th day of each month on a form provided by that Department.
23 However, no report need be filed by an eligible business in a
24 month when it made no reportable purchases of coal in the
25 previous month. The Illinois Department of Revenue shall
26 provide a summary of such reports to the Governor's Office of
27 Management and Budget ~~Bureau of the Budget~~.

28 Upon granting financial assistance to an eligible
29 business, the Department shall certify the name of the eligible
30 business to the Illinois Department of Revenue. Beginning with
31 the receipt of the first report of State occupation and use
32 taxes paid by an eligible business and continuing for a 25-year
33 period, the Illinois Department of Revenue shall each month pay
34 into the Energy Infrastructure Fund 80% of the net revenue

1 realized from the 6.25% general rate on the selling price of
2 Illinois-mined coal that was sold to an eligible business.

3 (Source: P.A. 92-12, eff. 7-1-01; 93-167, eff. 7-10-03; revised
4 8-23-03.)

5 Section 10. The Illinois Enterprise Zone Act is amended by
6 changing Section 5.5 as follows:

7 (20 ILCS 655/5.5) (from Ch. 67 1/2, par. 609.1)

8 Sec. 5.5. High Impact Business.

9 (a) In order to respond to unique opportunities to assist
10 in the encouragement, development, growth and expansion of the
11 private sector through large scale investment and development
12 projects, the Department is authorized to receive and approve
13 applications for the designation of "High Impact Businesses" in
14 Illinois subject to the following conditions:

15 (1) such applications may be submitted at any time
16 during the year;

17 (2) such business is not located, at the time of
18 designation, in an enterprise zone designated pursuant to
19 this Act;

20 (3) (A) the business intends to make a minimum
21 investment of \$12,000,000 which will be placed in
22 service in qualified property and intends to create 500
23 full-time equivalent jobs at a designated location in
24 Illinois or intends to make a minimum investment of
25 \$30,000,000 which will be placed in service in
26 qualified property and intends to retain 1,500
27 full-time jobs at a designated location in Illinois.
28 The business must certify in writing that the
29 investments would not be placed in service in qualified
30 property and the job creation or job retention would
31 not occur without the tax credits and exemptions set
32 forth in subsection (b) of this Section. The terms

1 "placed in service" and "qualified property" have the
2 same meanings as described in subsection (h) of Section
3 201 of the Illinois Income Tax Act; or

4 (B) the business intends to establish a new
5 electric generating facility at a designated location
6 in Illinois. "New electric generating facility" for
7 purposes of this Section means a newly-constructed
8 electric generation plant or a newly-constructed
9 generation capacity expansion at an existing electric
10 generation plant, including the transmission lines and
11 associated equipment that transfers electricity from
12 points of supply to points of delivery, and for which
13 such new foundation construction commenced not sooner
14 than July 1, 2001. Such facility shall be designed to
15 provide baseload electric generation and shall operate
16 on a continuous basis throughout the year; and shall
17 have an aggregate rated generating capacity of at least
18 1,000 megawatts for all new units at one site if it
19 uses natural gas as its primary fuel and foundation
20 construction of the facility is commenced on or before
21 December 31, 2004, or shall have an aggregate rated
22 generating capacity of at least 400 megawatts for all
23 new units at one site if it uses coal or gases derived
24 from coal as its primary fuel and shall support the
25 creation of at least 150 new Illinois coal mining jobs,
26 or shall use coal gasification or integrated
27 gasification-combined cycle units that generate
28 electricity or chemicals, or both, and shall support
29 the creation of Illinois coal-mining jobs, or shall be
30 a public utility that is owned and operated by any
31 political subdivision or municipal corporation or that
32 is owned by such an entity and operated by any lessee
33 or any operating agent of that entity and supports the
34 creation of Illinois coal-mining jobs, or shall be

1 owned in whole or in part by an electric cooperative,
2 as defined in Section 3.4 of the Electric Supplier Act,
3 and support the creation of Illinois coal-mining jobs,
4 or shall be a State-owned facility and supports the
5 creation of Illinois coal mining jobs. The business
6 must certify in writing that the investments necessary
7 to establish a new electric generating facility would
8 not be placed in service and the job creation in the
9 case of a coal-fueled plant would not occur without the
10 tax credits and exemptions set forth in subsection
11 (b-5) of this Section. The term "placed in service" has
12 the same meaning as described in subsection (h) of
13 Section 201 of the Illinois Income Tax Act; or

14 (C) the business intends to establish production
15 operations at a new coal mine, re-establish production
16 operations at a closed coal mine, or expand production
17 at an existing coal mine at a designated location in
18 Illinois not sooner than July 1, 2001; provided that
19 the production operations result in the creation of 150
20 new Illinois coal mining jobs as described in
21 subdivision (a)(3)(B) of this Section, and further
22 provided that the coal extracted from such mine is
23 utilized as the predominant source for a new electric
24 generating facility. The business must certify in
25 writing that the investments necessary to establish a
26 new, expanded, or reopened coal mine would not be
27 placed in service and the job creation would not occur
28 without the tax credits and exemptions set forth in
29 subsection (b-5) of this Section. The term "placed in
30 service" has the same meaning as described in
31 subsection (h) of Section 201 of the Illinois Income
32 Tax Act; or

33 (D) the business intends to construct new
34 transmission facilities or upgrade existing

1 transmission facilities at designated locations in
2 Illinois, for which construction commenced not sooner
3 than July 1, 2001. For the purposes of this Section,
4 "transmission facilities" means transmission lines
5 with a voltage rating of 115 kilovolts or above,
6 including associated equipment, that transfer
7 electricity from points of supply to points of delivery
8 and that transmit a majority of the electricity
9 generated by a new electric generating facility
10 designated as a High Impact Business in accordance with
11 this Section. The business must certify in writing that
12 the investments necessary to construct new
13 transmission facilities or upgrade existing
14 transmission facilities would not be placed in service
15 without the tax credits and exemptions set forth in
16 subsection (b-5) of this Section. The term "placed in
17 service" has the same meaning as described in
18 subsection (h) of Section 201 of the Illinois Income
19 Tax Act; and

20 (4) no later than 90 days after an application is
21 submitted, the Department shall notify the applicant of the
22 Department's determination of the qualification of the
23 proposed High Impact Business under this Section.

24 (b) Businesses designated as High Impact Businesses
25 pursuant to subdivision (a) (3) (A) of this Section shall qualify
26 for the credits and exemptions described in the following Acts:
27 Section 9-222 and Section 9-222.1A of the Public Utilities Act,
28 subsection (h) of Section 201 of the Illinois Income Tax Act,~~LT~~
29 and~~T~~ Section 1d of the Retailers' Occupation Tax Act,~~LT~~ provided
30 that these credits and exemptions described in these Acts shall
31 not be authorized until the minimum investments set forth in
32 subdivision (a) (3) (A) of this Section have been placed in
33 service in qualified properties and, in the case of the
34 exemptions described in the Public Utilities Act and Section 1d

1 of the Retailers' Occupation Tax Act, the minimum full-time
2 equivalent jobs or full-time jobs set forth in subdivision
3 (a) (3) (A) of this Section have been created or retained.
4 Businesses designated as High Impact Businesses under this
5 Section shall also qualify for the exemption described in
6 Section 51 of the Retailers' Occupation Tax Act. The credit
7 provided in subsection (h) of Section 201 of the Illinois
8 Income Tax Act shall be applicable to investments in qualified
9 property as set forth in subdivision (a) (3) (A) of this Section.

10 (b-5) Businesses designated as High Impact Businesses
11 pursuant to subdivisions (a) (3) (B), (a) (3) (C), and (a) (3) (D)
12 of this Section shall qualify for the credits and exemptions
13 described in the following Acts: Section 51 of the Retailers'
14 Occupation Tax Act, Section 9-222 and Section 9-222.1A of the
15 Public Utilities Act, and subsection (h) of Section 201 of the
16 Illinois Income Tax Act; however, the credits and exemptions
17 authorized under Section 9-222 and Section 9-222.1A of the
18 Public Utilities Act, and subsection (h) of Section 201 of the
19 Illinois Income Tax Act shall not be authorized until the new
20 electric generating facility, the new transmission facility,
21 or the new, expanded, or reopened coal mine is operational,
22 except that a new electric generating facility whose primary
23 fuel source is natural gas is eligible only for the exemption
24 under Section 51 of the Retailers' Occupation Tax Act.

25 (c) High Impact Businesses located in federally designated
26 foreign trade zones or sub-zones are also eligible for
27 additional credits, exemptions and deductions as described in
28 the following Acts: Section 9-221 and Section 9-222.1 of the
29 Public Utilities Act; and subsection (g) of Section 201, and
30 Section 203 of the Illinois Income Tax Act.

31 (d) Existing Illinois businesses which apply for
32 designation as a High Impact Business must provide the
33 Department with the prospective plan for which 1,500 full-time
34 jobs would be eliminated in the event that the business is not

1 designated.

2 (e) New proposed facilities which apply for designation as
3 High Impact Business must provide the Department with proof of
4 alternative non-Illinois sites which would receive the
5 proposed investment and job creation in the event that the
6 business is not designated as a High Impact Business.

7 (f) In the event that a business is designated a High
8 Impact Business and it is later determined after reasonable
9 notice and an opportunity for a hearing as provided under the
10 Illinois Administrative Procedure Act, that the business would
11 have placed in service in qualified property the investments
12 and created or retained the requisite number of jobs without
13 the benefits of the High Impact Business designation, the
14 Department shall be required to immediately revoke the
15 designation and notify the Director of the Department of
16 Revenue who shall begin proceedings to recover all wrongfully
17 exempted State taxes with interest. The business shall also be
18 ineligible for all State funded Department programs for a
19 period of 10 years.

20 (g) The Department shall revoke a High Impact Business
21 designation if the participating business fails to comply with
22 the terms and conditions of the designation.

23 (h) Prior to designating a business, the Department shall
24 provide the members of the General Assembly and Illinois
25 Economic and Fiscal Commission with a report setting forth the
26 terms and conditions of the designation and guarantees that
27 have been received by the Department in relation to the
28 proposed business being designated.

29 (Source: P.A. 91-914, eff. 7-7-00; 92-12, eff. 7-1-01; revised
30 3-7-02.)".